



Memphis and Shelby County

Office of Planning and Development

CITY HALL, 125 N. MAIN STREET, SUITE 468; MEMPHIS, TN 38103-2084

June XX, 2012

To: Members, Memphis City Council
From: Josh Whitehead, Planning Director

RE: Additional amendments to the Unified Development Code

Please be advised that the following amendments proposed to the Unified Development Code (the "UDC") postdate its approval by the Memphis and Shelby County Land Use Control Board. All of the following items are included in the staff report prepared for this Zoning Text Amendment.

The following items were added as a friendly amendment to the approval of the UDC by the Land Use Control Board. The specific language was developed after their approval and **included** in the ordinance that has been forwarding to you.

1. Home Occupations for Group Instruction: Section 2.7.4
2. Conditional Use Permit process: Chapter 9.24

The following items are suggested by the Office of Planning and Development and are **not included** in the ordinance that has been forwarded to you.

1. **2.7.5E**: Add "family day care home" and "group day care home" to the first portion of this sentence, which would allow these smaller forms of day care as accessory uses to places of worship. This sentence already permits the largest form of day care, a "child care center" to be permissible accessory uses to places of worship. However, these smaller forms of day care should not be subject to the requirement that the lot size be at least 20,000 square feet; Section 2.6.2B, which covers day care facilities, only requires 20,000 square foot lots for child care centers, the grouping of day care facilities with the most children
2. **5.2.11**: This section deals with the design speed of new minor streets during the subdivision process. The proposal is to change 30 mph back to 25 mph.
3. **7.1**: A new Sub-Section "I" shall be inserted into the opening Chapter for the Special Purpose Districts that will state that developments in the SCBID and Uptown districts shall install the same streetscape plates that are applicable throughout the rest of Memphis and Shelby County:

I. Streetscape Plates. Site plans submitted pursuant to this Article shall reflect the streetscape plates of Section 4.3.3, unless an alternative is approved pursuant to the standards of this Article. The appropriate streetscape plate for a site shall be determined by the Office of Planning and Development based on the proposed land use of the subject site and its equivalent zoning district according to Section 4.3.3.

In addition, each sub-section of Chapter 7.2, the SCBID district, refers to “equivalent streetscapes approved by OPD.” A reference to the new section proposed above is suggested in Paragraphs **7.2.2F(2)**, **7.2.3G(2)**, **7.2.4F(2)**, **7.2.5F(2)**, **7.2.6F(2)**, **7.2.9E(2)** (new language in **bold, underline**):

Parking lots and garages shall be landscaped with Plate A-6, Plate A-7 (see Section 7.2.8) or an equivalent streetscape approved by the Office of Planning and Development **(see Sub-Section 7.1I)**.

4. **9.3.2:** Neighborhood notification: (1) reduce the number of lots in a subdivision that triggers a neighborhood meeting from 50 to ten (Para. 9.3.2A(4)) and (2) add a method to notify residents in multi-family dwellings (Sub-Section 9.3.2B):

9.3.2 Neighborhood Notification and Meeting

- A. At least ten days, but not more than 120 days, prior to a hearing before the Land Use Control Board or governing bodies, the applicant shall provide an opportunity to meet with representatives from neighborhoods adjacent to the development site which the hearing involves:
 1. Zoning changes not in compliance with any plans to be considered (see Chapter 1.9);
 2. Special use permit and major modification to a special use permit;~~and~~

3. Planned development outline plan or major modification to a planned development outline plan; and
 4. Subdivisions containing at least **ten** ~~five~~ lots.
- B. Where applicable, the applicant shall contact the following to determine the need and method for discussing the proposed project: 1) the officers of any neighborhood or business associations registered with the City of Memphis Office of Community Affairs whose boundaries include properties within 1,500 feet of the subject property; 2) all current residents of single-family **and two-family** dwellings within the notification area; 3) all property owners within the notification area, if different from the current residents, to determine the need and method for discussing the proposed project; **and 4) the rental or management offices of all multi-family dwellings within the notification area with a request that said rental or management office post the notice in a conspicuous location within a common area(s), including, but not limited to: entry doors, hallways, mailbox areas and laundry rooms.** The neighborhood notification requirements shall be the same as the mailed public notice requirements in 9.3.4A. The notification shall also include the public hearing date of when the application will be heard by the Land Use Control Board or governing bodies. Documentation of the neighborhood notification shall be provided to the Office of Planning and Development and shall consist of a copy of the letter mailed to all parties, the address labels to whom letters were mailed and a map of the notice area. Neighborhood meetings are the sole responsibility of the applicant. If a neighborhood meeting is held, documentation of its proceedings shall also be provided to the Office of Planning and Development. The applicant may request neighborhood organizations' contact information, if available, from the Office of Planning and Development.
- C. The purpose of the neighborhood notification and meeting is to inform the neighborhood of the nature of the proposed land use and development features and solicit comments.
- D. ~~The posted notice requirements of Sub-Section 9.3.4C shall not apply to hearings described in Sub-Section 9.3.2A above.~~
5. **9.7.9A(3)(c)**: Re-recording of plats for setback changes: Remove Item 9.7.9A(3)(c): This action requires the Land Use Control Board's approval; its inclusion in this section implies that the Planning Director may approve such setbacks administratively.
 6. **9.7.4A(1)(c) and 9.7.6G(2)**: TDOT references: Consistent with other sections of the UDC, the references to the TDOT Long Range Transportation Plan shall be removed from Item 9.7.4A(1)(c) and Paragraph 9.7.6G(2), which may be in conflict with the MPO Long Range Transportation Plan.
 7. **10.2.5**: A Change in Nonconforming Use Permit should be required for all changes in use, even those that do not require structural changes. See proposed language to Section 10.2.5 below:

10.2.5 Change in Use

~~A. No Structural Alterations~~

~~Where no structural alterations are made in a building of a nonconforming use, such use may be changed to a use of a similar or higher classification (see Priv. Acts 1921, ch. 165, sec 7 and Priv. Acts 1931, ch. 613, sec. 8). The Planning Director shall determine whether a use is of a similar or higher classification on a case-by-case basis. The Planning Director shall not approve a change in use for a use that requires the issuance of a Special Use Permit, according to Article 2, or for an off-premise sign. In addition, the Planning Director shall not waive any use standard as set out in Chapter 2.6 with the approval of a change in use.~~

~~B. Structural Alterations —~~ **A.** Change in Nonconforming Use Permit

1. Board of Adjustment. ~~Where structural alterations are made in a building of A~~ nonconforming use, such use may be changed to a use of a similar or higher classification with the issuance of a Change in Nonconforming Use Permit. The Board of Adjustment shall have the authority to issue Change in Nonconforming Use Permits.

2. Application. A Change in Nonconforming Use Permit shall be processed in the same manner as a variance request (see Chapter 9.22). However, the Findings of Fact of Section 9.22.6 shall be substituted for the following: The Board shall find that the proposed use will create no greater adverse impacts on the surrounding area than the existing use.

3. Conflict with other Provisions. A Change in Nonconforming Use Permit shall not be issued for any use that requires the issuance of a Special Use Permit, according to Article 2, or for an off-premise sign. In addition, the Board of Adjustment shall not waive any use standard as set out in Chapter 2.6 with the approval of a Change in Nonconforming Use Permit. However, a companion application for a variance(s) may be filed with an application for a Change in Nonconforming Use Permit.

B. Higher Classification

For the purpose of this Section, a use of a “higher classification,” per **Priv. Acts 1921, ch. 165, sec 7 and Priv. Acts 1931, ch. 613, sec. 8** ~~the 1921 and 1931 Private Acts,~~ shall be determined accordingly. Those uses at the top of the following list are of a higher classification than those at the bottom. See Chapter 2.5, Use Table, for specific uses within each classification. For proposed uses within the same following categories as the existing use, or for proposed uses not included within the following categories, the Planning Director or the Board of Adjustment shall determine whether a proposed use is of a higher classification as compared to the existing use on a case-by-case basis.

1. Open
2. Single-Family Residential
3. Multi-Family Residential
4. Civic
5. Commercial
6. Industrial

8. XXX